

## **REMARKS**

### **I. Introduction**

Claims 33-54 are currently pending. In the Office Action dated April 29, 2009, the Examiner rejected claims 33-42 and 54 under 35 USC §103(a) as allegedly being unpatentable over Kalmanek (US Patent No. 7,492,886) in view of Allen (US Publication No. 2006/0274732). Claim 51 was rejected under 35 USC §103(a) as allegedly being unpatentable over Kalmanek. Claims 43-50 and 52-53 were rejected under 35 USC §102(e) as allegedly being anticipated by Kalmanek.

For at least the following reasons, the rejections of all pending claims should be withdrawn and the claims should be passed to issue. While this paper is believed to completely address all pending rejections, Applicants reserve the right to set forth other reasons supporting the patentability of the claims, including reasons supporting the separate patentability of dependent claims not explicitly addressed herein, in future papers.<sup>1</sup> Further, for any instances in which the Examiner took Official Notice in the Office Action, Applicants expressly do not acquiesce to the taking of Official Notice, and respectfully request that the Examiner provide an affidavit to support the Official Notice taken in the next Office Action, as required by 37 CFR 1.104(d)(2) and MPEP § 2144.03.

### **II. Rejection of the Claims Citing Kalmanek and/or Allen**

Independent claim 33 was rejected under 35 USC §103(a) as allegedly being unpatentable over Kalmanek in view of Allen. Independent claim 43 was rejected under 35 USC §102(e) as allegedly being anticipated by Kalmanek. However, Kalmanek and Allen both fail to qualify as “prior art” with regard to the presently pending patent application. Kalmanek and Allen are both continuations of several issued patents. The earliest priority date claimed by Kalmanek is August 4, 1999, and the earliest priority date claimed by Allen is April 7, 1999.

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<sup>1</sup> As Applicants’ remarks with respect to the Examiner’s rejections are sufficient to overcome any rejections, Applicants’ silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future.

The presently pending application is a continuation of US Patent No. 6,711,241 filed on Nov. 17, 1999, which is a continuation-in-part of US Patent No. 6,069,890 filed on June 26, 1996, which is a continuation-in-part of US Patent No. 6,125,113 filed on August 16, 1996, which is a continuation-in-part of US Patent No. 6,438,218 filed on April 18, 1996. In the Office Action, page 2, the Examiner stated “Applicant’s claim for the benefit of a prior-filed application... is acknowledged. Applicant is given priority to the continuation filing date 11/17/1999.” However, claims 33 and 43 are properly supported by at least US Patent No. 6,069,890, filed on June 26, 1996. For example, claims 33 and 43 are supported at least by Col. 8, lines 24-43, and 61-67; Col. 9, lines 10-13, 19-21, and 37-64; and Col. 10, lines 12-20 of US 6,069,890. For at least this reason, claims 33 and 43 are patentable over Kalmanek alone or in combination with Allen.

Dependent claims 34-42 and 44-54 are patentable at least by virtue of their dependence on claims 33 or 43. Nevertheless, Kalmanek and Allen fail to qualify as “prior art” against the dependent claims since the dependent claims are also supported by US 6,069,890. For example, support for claims 34, 35, 47, and 48 can be found in US 6,069,890 at least at Col. 8, lines 24-39. Support for claims 36, 37, 45, and 46 can be found at least at Col. 10, lines 11-20. Support for claims 38 and 49 can be found at least at Col. 11, lines 16-17. Support for claim 39 can be found at least at Col. 5, lines 10-14 and Col. 7, lines 48-64. Support for claims 40 and 50 can be found at least at Col. 9, lines 32-33; Col. 7, lines 1-3; and Col. 11, lines 12-16. Support for claim 41 can be found at least at Col. 9, lines 11-13. Support for claim 42 can be found at least at Col. 7, line 65-col. 8, line 8; and Col. 9, lines 19-41. Support for claim 44 can be found at least at Col. 7, lines 39-44. Support for claim 51 can be found at least at Col. 5, lines 46-49; and Col. 8, lines 2-6. Support for claim 52 can be found at least at Col. 9, lines 46-64. Support for claim 53 can be found at least at Col. 7, line 65-col. 8, line 8; and Col. 9, lines 19-41. Finally, support for claim 54 can be found at least at Col. 10, lines 28-36.

Accordingly, claims 33-54 are properly supported by US 6,069,890 filed June 26, 1996, approximately three years before Kalmanek and Allen’s priority date. Thus, Kalmanek and Allen, alone or in combination, fail to qualify as “prior art”. For at least this reason, claims 33-54 are patentable over the references cited by the Examiner.

**CONCLUSION**

All rejections have been addressed. In view of the above, the presently pending claims are believed to be in condition for allowance. Accordingly, reconsideration and allowance are respectfully requested and the Examiner is respectfully requested to pass this application to issue.

It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account 18-0013, under order number 65632-0187. To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136(a) is hereby made, the fee for which should be charged against the aforementioned account.

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Respectfully submitted,

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